

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE TERRORIST ATTACKS
ON SEPTEMBER 11, 2001

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: 03 MDL 1570 (GBD)(SN)
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This Document Relates to:
Havlish, et al. v. bin Laden, et al.
1:03-cv-9848 (GBD)(SN)

~~PROPOSED~~ ORDER AUTHORIZING SERVICE OF WRITS OF EXECUTION
BY PRIVATE PROCESS SERVER

After having read and considered the the Havlish Plaintiffs' Motion to Serve Writs of Execution By Private Process Server, and the accompanying Memorandum of Law, the Court finds as follows:

1. The Havlish Plaintiffs are representatives of Decedents' Estates and individual family members of such Decedents in the above-captioned case and are holders of judgments issued by this Court against the Islamic Republic of Iran ("Iran") and fifteen additional Defendants, one of which is the Central Bank of Iran, *aka* Bank Markazi. *Havlish, et al. v. bin Laden, et al.*, 1:03-cv-09848 (GBD)(FM) (S.D.N.Y.), Doc. No. 317, dated October 16, 2012.
2. This Court authorized Plaintiffs to execute their Judgments pursuant to 28 U.S.C. § 1610(c). *Havlish* Doc. No. 393, dated September 12, 2013. The Court specifically authorized the Havlish Plaintiffs to execute their Judgments in the Southern District of New York against Bank Markazi assets held by Clearstream Banking S.A. *Havlish* Doc. No. 504, dated April 7, 2020.

3. This Court authorized the Plaintiffs to issue restraining notices specifically on Clearstream Banking, S.A., pursuant to New York Consolidated Laws, Civil Practice Law and Rules - CVP § 5222. *Havlish* Doc. No. 504, dated April 7, 2020.
4. On April 27, 2020, the Clerk for the United States District Court for the Southern District of New York, under seal of this Court, issued a writ of execution upon Clearstream Banking, S.A., pursuant to NY CPLR 5225. The writ of execution was entered on the *Havlish* docket (without a corresponding docket number) on April 27, 2020 (“Writ of Execution”).
5. The Writ of Execution issued by this Court directs the Office of the United States Marshal for the Southern District of New York (“SDNY Marshal Service”) to enforce and satisfy a judgment for payment of money pursuant to Rule 69 of the Federal Rules of Civil Procedure.
6. As a result of COVID-19-related precautions, the SDNY Marshal Service has not been, and is not presently, serving process of any kind, including writs of execution, until further notice, and there is no estimate of when the SDNY Marshal Service will resume such service. *See* Standing Order M10-468 (March 13, 2020) (suspending service of summons until further order of the court lifts the suspension).
7. Fed. R. Civ. P. 4.1(a) authorizes a court to “specially appoint[]” someone other than “a United States marshal or deputy marshal” to serve process. Rule 4.1 gives courts the authority to appoint a process server retained by the *Havlish* Plaintiffs to serve writs of execution. *Lation v. Fetner Properties*, 17-cv-3276, 2019 WL 1614691 at *3-4 (S.D.N.Y. April 16, 2019) (appointing a process server to serve a writ of execution when the SDNY Marshal Service was unavailable during a government shutdown).

8. Under the circumstances described above, the Havlish Plaintiffs ask the Court to appoint Classic Legal Support Services, Inc., a private process server retained by the Havlish Plaintiffs, at their own cost, to serve the Writ of Execution, any new, additional, or reissued writs of execution, and any documents related to such writs until the SDNY Marshall Service once again begins serving process.
9. On March 20, 2020, New York Governor Andrew Cuomo issued an Executive Order for the “Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.” Executive Order 202.8 (“NY E.O. 202.8”). NY E.O. 202.8 was issued as part of the State of New York’s response to the COVID-19 pandemic. Among other things, NY E.O. 202.8 tolled:

any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate’s court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020.
10. In a series of additional Executive Orders, Governor Cuomo has extended the tolling period until September 4, 2020. *See* NY E.O. 202.14, 202.38, 202.48, 202.55.
11. Classic Legal Support Services, Inc. is located at 475 Park Avenue South, 18th Floor, New York, New York, 10016.
12. Plaintiffs have stated that they will bear the entire cost to retain Classic Legal Support Services, Inc.

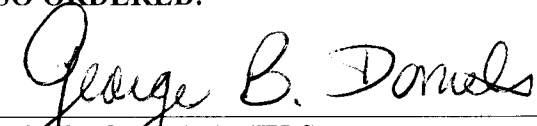
WHEREFORE, and in light of the foregoing and for good cause shown, the Havlish Plaintiffs’ Motion to Serve Writs of Execution By Private Process Server, authorizing the Havlish Plaintiffs to retain an alternative, private process server to serve both the April 27, 2020

writ of execution and any reissued writ of execution on Clearstream Banking S.A., together with any other related papers, until such time as the United States SDNY Marshal Service resumes serving writs of execution and clears its backlog of service and other courthouse obligations, is GRANTED.

IT IS FURTHER ORDERED that the Havlish Plaintiffs are authorized to serve both the writ of execution issued on April 27, 2020 and any reissued writ of execution on Clearstream Banking, S.A., at Plaintiffs' own expense, by the private process server Classic Legal Support Services, Inc., located at 475 Park Avenue South, 18th Floor, New York, New York, 10016, which is hereby appointed pursuant to Rule 4.1, Fed. R. Civ. P., to serve any and all writs of execution and associated documents in this matter until such time as the U.S. Marshal Service resumes serving writs of execution and clears any existing backlog of service obligations or other courthouse duties.

SO ORDERED.

Date: SEP 08 2020, 2020
New York, NY



GEORGE B. DANIELS
UNITED STATES DISTRICT JUDGE